

**In the United States Court of Federal Claims**  
**OFFICE OF SPECIAL MASTERS**  
(Filed: June 30, 2008)

JILLIAN LOWRIE	)	
parent and next friend of,	)	
EMILY PAIGE LOWRIE	)	
a minor,	)	
	)	UNPUBLISHED
Petitioner,	)	Interim Attorneys' Fees
	)	and Costs
	)	
v.	)	No. 03-1585V
	)	
SECRETARY OF THE DEPARTMENT OF	)	
HEALTH AND HUMAN SERVICES,	)	
	)	
Respondent.	)	
	)	

Robert T. Moxley, Cheyenne, WY, for petitioner.

Darryl R. Wishard, Department of Justice, Civil Division, Torts Branch, Washington, DC,  
for respondent.

**INTERIM ATTORNEYS' FEES AND ATTORNEYS' COSTS DECISION<sup>1</sup>**

On June 30, 2003, petitioner, Jillian Lowrie, as the parent and next friend of Emily Paige Lowrie, filed a petition pursuant to the National Vaccine Injury Compensation Program (the Act or the Program), 42 U.S.C. § 300aa-10 et seq.

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<sup>1</sup> Vaccine Rule 18(b) states that all of the decisions of the special masters will be made available to the public unless an issued decision contains trade secrets or commercial or financial information that is privileged or confidential, or the decision contains medical or similar information the disclosure of which clearly would constitute an unwarranted invasion of privacy. When a special master files a decision or substantive order with the Clerk of the Court, each party has 14 days within which to identify and move for the redaction of privileged or confidential information before the document's public disclosure.

This case formerly was assigned to another special master who conducted two hearings in this case. The first hearing was conducted on May 24, 2005. The second hearing occurred on August 31, 2005.

On December 12, 2005, the then-presiding special master issued a ruling regarding onset of symptoms and findings of fact. Upon reassignment to the undersigned, petitioner's counsel moved for reconsideration of the December 2005 ruling. The undersigned denied petitioner's motion by an order dated November 29, 2006. Petitioner subsequently moved for summary judgment. The undersigned denied petitioner's summary judgment motion by an order dated August 31, 2007. Additional proceedings are currently underway.

On May 23, 2008, petitioner's counsel filed a motion for reimbursement of interim fees and costs (P's Interim Fees Motion). In his motion, petitioner's counsel requested \$53,960.00 in attorneys' fees and \$8,165.15 in attorneys' costs. In addition, petitioner's counsel represented that petitioner had expended \$2472.70 in out-of-pocket expenses. P's Interim Fees Motion ¶ 5. Petitioner's counsel stated in his motion that the exhibits attached to his interim fees motion "accurately depict the professional services rendered to the petitioner as of the end of March, 2008, **at local rates in Cheyenne, Wyoming.**" P's Interim Fees Motion ¶ 6 (emphasis in original). Petitioner's counsel also stated that he was seeking local rates "as interim fees, **without prejudice** to the adjudication of proper and lawful market rates for the entirety of services rendered to petitioner, at the end of the instant litigation." Id. ¶ 8 (emphasis in original).

On June 18, 2008, petitioner's counsel filed an unopposed, amended petition (P's Unopposed Motion) for an award of interim fees and costs in the amount of \$50,000. Petitioner's counsel represented that "[t]he parties have also agreed that those issues which surround the hourly rates to be applied (which issues are pending in other Program litigation) are still subject to litigation herein, and the parties' agreement is without prejudice to either party as to the positions regarding the appropriate hourly rates to be charged by petitioner's counsel." P's Unopposed Motion ¶ 4.

The undersigned determines that petitioner is entitled to an award of interim attorneys' fees and attorneys' costs. The special master further determines that there is no just reason to delay the entry of judgment on interim attorneys' fees and attorneys' costs. Therefore, in the absence of a motion for review filed under RCFC Appendix B, the clerk of court shall enter judgment in petitioner's favor for \$50,000.00 in interim attorneys' fees and attorneys' costs. Under Vaccine Rule 11(a), the parties may expedite entry of judgment by filing a joint notice renouncing the right to seek review.

**IT IS SO ORDERED.**

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Patricia E. Campbell-Smith  
Special Master